



EDUARDO DE LA PENA BERNAL
 PARTNER
 Shutts & Bowen LLP
 200 South Biscayne Boulevard
 Suite 4100
 Miami, FL 33131
 DIRECT (305) 415-9063
 EMAIL edelapena@shutts.com

May 21, 2025

VIA ECF

The Honorable Lewis A. Kaplan
 United States District Judge
 Southern District of New York
 Daniel Patrick Moynihan United States Courthouse
 500 Pearl Street
 New York, NY 10007-1312

**Re: *Telecom Business Solution, LLC, et al. v. Terra Towers Corp., et al.*,
Case No.: 1:22-cv-01761**

Your Honor:

We write on behalf of non-parties, Telecom Business Solution S.R.L., Continental Towers Peru, S.R.L., Collocation Technologies Peru, S.R.L., Magali Merino Ascarrunz, and Jorge Alejandro Garzaro Perez (the “Peru Non-Parties”).¹

We make reference to the recent filings by Petitioners’ Peppertree² and AMLQ³ seeking emergency relief in the form of further civil contempt sanctions designed to protect from prosecution Mr. Jorge Alberto Gaitan Castro, the Chief Executive Officer of Continental Towers LATAM Holdings Limited (the “Company”), and his father, Mr. Jorge Leonel Gaitan Paredes, who currently are incarcerated in Guatemala as a result of certain criminal proceedings initiated in Guatemala and/or El Salvador (ECF Nos. 328-330).

We do not address the merits of Petitioners’ contentions and note the severity of the allegations therein raised. However, the Peru Non-Parties oppose the proposed order submitted by Petitioners (ECF No. 329-1) in the form presented because it is directed not only to Respondents

¹ By filing this Letter Response, the Peru Non-Parties do not submit themselves to the jurisdiction of this Court and expressly reserve all available defenses, including but not limited to challenges to the Court’s jurisdiction. This Letter Response is not intended to, and does not, constitute a waiver of any defense or objection available to the Peru Non-Parties.

² “Peppertree” refers collectively to petitioners Telecom Business Solution, LLC and LATAM Towers, LLC.

³ “AMLQ” refers to petitioner AMLQ Holdings (Cay), Ltd.

The Honorable Lewis A. Kaplan
 May 21, 2025
 Page 2

and a number of Guatemalan and Salvadorian based persons and entities, but also to the Peru Non-Parties (ECF No. 329-1 at Ex. B). The Peru Non-Parties should not be subject to any such order.

As stated in the Peru Non-Parties' Motion for Reconsideration (ECF Nos. 322-326), which included declarations from Mrs. Magali Merino Ascarrunz (ECF No. 324) and Mr. Jorge Alejandro Garzaro Perez (ECF No. 325) (the "Peru Individual Non-Parties"), the Peru Non-Parties have nothing to do with any action commenced or prosecuted by entities or persons in Guatemala, El Salvador, or any other place other than Peru.⁴

The Peru Non-Parties are based in Peru, not in Guatemala, El Salvador, or anywhere else. Telecom Business Solution S.R.L., Continental Towers Peru, S.R.L., and Collocation Technologies Peru, S.R.L. are incorporated and domiciled in Peru and do business only in Peru (ECF No. 324 at ¶¶ 1, 5, 6; ECF No. 325 at ¶¶ 1, 6). The Peru Individual Non-Parties likewise are domiciled in Peru, are employed by a Peruvian company (Telecom Business Solution S.R.L.), and conduct business and perform services only in Peru. *Id.*

As set forth in the proposed order submitted by Petitioners (ECF No. 329-1 at Ex. A), the criminal actions at issue were initiated and are pending in Guatemala and El Salvador (the "Criminal Actions" as the term is defined in Petitioners' proposed order). The Peru Non-Parties, including the Peru Individual Non-Parties, have no connection to those actions, and there are no allegations by Petitioners to the contrary.

Moreover, the Peru Non-Parties would have no means to protect themselves against the alleged contempt if the proposed order is entered in its present form. Compliance is impossible since they cannot withdraw criminal complaints they did not file, retract witness statements they did not submit, or facilitate the termination of the Criminal Actions given they had no participation whatsoever in commencing them.

For the foregoing reasons, as well as the reasons more fully set forth in the Motion for Reconsideration on behalf of the Peru Non-Parties, if the Court is inclined to grant the extraordinary relief sought by Petitioners, we respectfully request that the proposed order be modified to exclude the Peru Non-Parties.

⁴ Moreover, the Peru Non-Parties are not Respondents' agents, they do not work for Jorge Hernandez, and are not DTH Managers, as Petitioners have improperly alleged at different times. See ECF No. 323, ECF No. 324 at ¶ 17, including its Exhibit A, & ECF No. 325 at ¶ 17, including its Exhibit A.

The Honorable Lewis A. Kaplan
May 21, 2025
Page 3

Respectfully,

/s/

Eduardo De la Peña Bernal

*Counsel for Peru Non-Parties, Telecom
Business Solution S.R.L., Continental
Towers Peru, S.R.L., Collocation
Technologies Peru, S.R.L., Magali Marino
Ascarrunz, and Alejandro Garzaro Perez*

cc: Counsel of record (via ECF)